

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JACQUELINE MILLER,)	
)	
Plaintiff,)	
)	
v.)	1:06CV497
)	
PHILIP MORRIS USA INC.,)	
)	
Defendant.)	

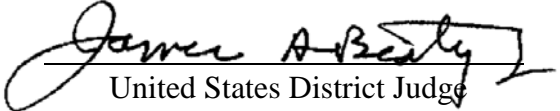
ORDER

This matter is before the Court on a Motion for Summary Judgment [Document # 25] filed by Defendant Philip Morris USA Inc. (“Defendant” or “Philip Morris”). Plaintiff Jacqueline Miller (“Plaintiff”) is an employee of Philip Morris, and brings this case alleging three claims: (1) violation of North Carolina’s Retaliatory Employment Discrimination Act, N.C. Gen. Stat. § 95-240 *et seq.*, (“REDA”) for disciplinary action taken against her after she filed a state OSHA complaint; (2) race discrimination in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”) and 42 U.S.C. § 1981 based on her assertion that as an African-American she was disciplined more harshly than her Caucasian co-workers who engaged in similar conduct; and (3) retaliation in violation of Title VII and § 1981. The case is set for trial on the July 2007 Civil Trial Calendar, but briefing on the Motion for Summary Judgment was not completed until June 18, 2007. Having reviewed the parties’ briefs and the evidence presented, the Court finds that there are genuine issues of material fact for trial with respect to Plaintiff’s state law REDA claim and Plaintiff’s claim for race discrimination in violation of Title VII and § 1981. The Court

notes, however, that although Plaintiff initially alleged a retaliation claim under Title VII and § 1981, Plaintiff has not responded to Defendant's Motion to Dismiss as to this claim, nor has she come forward with evidence to establish that she engaged in protected activity supporting a Title VII or § 1981 retaliation claim. Therefore, Plaintiff's claim for retaliation in violation of Title VII and § 1981 will be dismissed, but the remaining claims will proceed to trial.

IT IS THEREFORE ORDERED that Defendant's Motion for Summary Judgment is GRANTED IN PART, and Plaintiff's claim for retaliation in violation of Title VII and § 1981 is DISMISSED. However, Defendant's Motion for Summary Judgment is DENIED with respect to Plaintiff's remaining claims for (1) retaliation in violation of REDA and (2) race discrimination in violation of Title VII and § 1981, and those two claims will proceed to trial.

This, the 25th day of June, 2007.


United States District Judge